IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 815 OF 2005

Mandar Ratnakar Chogle ...Petitioner

Versus

Jayesh Navalshankar Joshi & Anr ...Respondents

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Mr. S.R. Mishra, Advocate for Petitioner
Mr. S.R. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED: 25TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of proceedings relating to Criminal Case No.441/S/2002 (old case No. 277/S/95 and 518/S/97) which is pending in the Court of learned Metropolitan Magistrate, 26th Court Borivli, Mumbai. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioner submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the petitioner is set aside, the proceedings in respect of the petitioner would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of four weeks from today. I am informed that the date before the trial Court is 9.9.2005. In view of this statement, the trial Court shall not proceed with the trial on 9.9.2005 and for a period of two weeks thereafter.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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